

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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|------------------------------|---|--------------------------------------|
| AMIR MAJIKE BEY, | : | CIVIL ACTION NO. 1:12-CV-1531 |
| Petitioner | : | |
| | : | (Judge Conner) |
| v. | : | |
| | : | |
| COMMONWEALTH OF | : | |
| PENNSYLVANIA, et al., | : | |
| Respondents | : | |

ORDER

AND NOW, this 21st day of February, 2013, upon consideration of the Report and Recommendation of United States Magistrate Judge Martin C. Carlson (Doc. 14), recommending that the petition for writ of habeas corpus (Doc. 1) be dismissed, and, following an independent review of the record, and noting that Petitioner filed objections¹ to the report (Doc. 15) on February 12, 2013, and the court finding Judge Carlson's analysis to be thorough and well-reasoned, and the court finding the objections to be without merit and squarely addressed by Judge Carlson's report (Doc. 14), it is hereby ORDERED that:

¹ Where objections to a magistrate judge's report and recommendation are filed, the court must perform a *de novo* review of the contested portions of the report. Supinski v. United Parcel Serv., Civ. A. No. 06-0793, 2009 WL 113796, at *3 (M.D. Pa. Jan. 16, 2009) (citing Sample v. Diecks, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(c)). "In this regard, Local Rule of Court 72.3 requires 'written objections which . . . specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for those objections.'" Id. (citing Shields v. Astrue, Civ. A. No. 07-417, 2008 WL 4186951, at *6 (M.D. Pa. Sept. 8, 2008)).

1. The Report and Recommendation of Judge Carlson (Doc. 14) are ADOPTED.
2. The petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is DISMISSED without prejudice.
3. There is no basis for the issuance of a certificate of appealability. See 28 U.S.C. § 2253(c).²
4. The Clerk of Court is directed to CLOSE this case.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge

²Pursuant to 28 U.S.C. § 2253(c), unless a circuit justice or judge issues a certificate of appealability (“COA”), an appeal may not be taken from a final order in a proceeding under 28 U.S.C. § 2254. A COA may issue only if the applicant has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” Miller-El v. Cockrell, 537 U.S. 322 (2003)). Here, jurists of reason would not find the disposition of this case debatable. However, petitioner is advised that he has the right to appeal our order denying his petition within thirty days, see 28 U.S.C. § 2253(a); FED. R. APP. P. 4(a)(1)(A), and that our denial of a certificate of appealability does not prevent him from doing so, as long as he seeks, and obtains, a certificate of appealability from the court of appeals. See FED. R. APP. P. 22.